

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA

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CASE NO. 4:05cr173(15)

v.

ANTONIO FRANCISO WASHINGTON

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on December 11, 2007, to determine whether the Defendant violated his supervised release. The Defendant was represented by Mark Perez. The Government was represented by Maureen Smith.

On May 23, 2006, the Defendant was sentenced by the Honorable Michael H. Schneider, United States District Judge, to nine (9) months custody, followed by a three (3) year term of supervised release for the offense of Conspiracy to Distribute or Dispense or Possess with Intent to Distribute or Dispense Cocaine Base and Marijuana. On July 21, 2006, the Defendant completed his period of imprisonment and began service of his supervised term.

On May 4, 2007, the U.S. Probation Officer filed a Petition for Warrant or Summons for Offender Under Supervision. The petition asserted that Defendant violated the following conditions: (1) Defendant shall not commit another federal, state, or local crime; (2) Defendant shall not unlawfully possess a controlled substance; (3) Defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotic or other controlled

substance, or any paraphernalia related to such substances, except as prescribed by a physician; (4) Defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer; and (5) Defendant shall participate in a program of testing and treatment for drug abuse, under the guidance and direction of the U.S. Probation Office, until such time as the defendant is released from the program by the probation officer.

The petition alleges that Defendant committed the following violations: (1) On April 12, 2007, Defendant was indicted by the federal grand jury in the Eastern District of Texas, Case No. 4:07cr79 for 6 counts of violation of 21 U.S.C. § 841(a)(1), Distribution of Cocaine Base, the offenses occurred on February 19, 20, 27, and March 1, 3, and 8, 2007, and Defendant is in federal custody; (2) Defendant associated with girlfriend, Kimberly Boyd, who allegedly engaged in criminal activity of Delivery of a Controlled Substance - Crack Cocaine, on February 19, 2007, as reported by McKinney Police Detective Chris Grollnek; and (3) Defendant failed to submit to drug testing as directed on August 14, 2006, and January 20 and February 10, 2007.

Prior to the Government putting on its case, the Defendant entered a plea of true to the alleged violations, and Defendant and his counsel offered a statement to the Court regarding the sentencing range. At the hearing, the Court recommended that Defendant's supervised release be revoked and recommended a sentence within the proposed range.

RECOMMENDATION

The Court recommends that the District Court revoke the Defendant's supervised release. Pursuant to the Sentencing Reform Act of 1984, the Court recommends that the Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of fourteen (14)

months, to run consecutively to any other sentence being served, with no supervised release to follow.

SIGNED this 13th day of December, 2007.



DON D. BUSH
UNITED STATES MAGISTRATE JUDGE